IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPEALLTE JURISDICTION.

CRIMINAL APPEAL NO. 82 OF 2002

Raghunath Baburao Patil ....Appellant.
(Orig.Accd.)

V/s

The State of Maharashtra .... Respondents.

Ms.Yashodha Sakhare with Ms.Varsha Palav, Adv. for the appellant.

Dr.F.R.Shaikh, APP for the State.

CORAM: V.G. PALSHIKAR, Ag.C.J.
AND
SMT.NISHITA MHATRE, J.

12th Sept., 2006.

ORAL JUDGMENT: (Per Palshikar, Ag. C.J.)

Being aggrieved by the judgment and order of conviction and sentence passed by the learned Adhoc Additional Sessions Judge, Kolhapur in Sessions Case No.84 of 2000 on 1.12.2001 the appellant-accused has preferred this appeal on the grounds mentioned in the memo of appeal as also verbally canvassed before us.

2. With the assistance of the learned Advocate for the appellant as also the learned Public Prosecutor we have scrutinized the entire evidence on and reappreciated the same.

3. The prosecution case to be summarized is that on 11.7.1999 between 7 and 7.30 p.m. in village Kekhale, Taluka, Panhala, in furtherance of their common intention the appellant-accused along with three others committed murder by intentionally or knowingly causing death of Nivrutti Bapu Patil by causing him injuries with axe by appellant-accused no.1 and by sticks by rest of the accused. Accused Nos.1 to 3 are real brothers and accused No.4 is their cousin whose sister Sindhubai is the wife of deceased Nivrutti Patil. It is the case of the prosecution that the victim Nivrutti Patil, his brothers, father and the accused were resident of same village. There was house adjacent to the house of Nivrutti Patil owned by Sakharam Krishna Patil and Balwant Krishna Patil who had offered it for sale. Since it was adjacent to the house of Nivrutti Patil with the intention to purchase the said house his family had bargained with said Sakharam and Balwant and fixed the deal. This came to the knowledge of the accused Nos. 1 to 4 who also were interested in purchasing the said house. Therefore accused No.1 Raghunath approached Nivrutti and threatened him not to purchase the said house as otherwise it will not be good in their interest. Despite this threat Nivrutti purchased the said house which created bitterness amongst the two families though related. On the same day Nivrutti along with his three brothers Laxman, Bhagwan, Raghunath their distant cousin Shivaji met at the house of their brother Raghunath Patil where they viewed cinema on television. The movie was over at 6.00 p.m. when Nivrutti milked she-buffalo

and went to open his bicycle shop located in the vicinity of the said house. Laxman brother of Bhagwan who was at the relevant time at the dairy was informed by Bhagwan that the appellant-accused' s daughter Sunita had exchanged words with the victim and Sunita had told Nivrutti that she would complaint to her father and teach him. He also informed him that Nivrutti had proceeded to Runmale Tikti. Laxman and Bhagwan suspecting some trouble also went running toward Rumale Tikti. While approaching Rumale Tikti at 7 or 7.30 p.m. they saw that accused Nos. 1 to 4 were attacking Nivrutti near the house of one Chavan. Accused No.1 was dealing blow with axe on Nivrutti while accused Nos. 2 to 4 were dealing blows with sticks in their hands. Accused Nos. 1 to 4 noticing Laxman, Bhagwan & Shivaji at some distance left the place of offence and ran away. Prakash son of complainant Laxman informed his mother Anjana that Nivrutti was being hackled by accused Nos. 1 to 4. On hearing this Ranjana went running to Rumale Tikti and noticed Nivrutti being hackled by axe and sticks by accused Nos. 1 to 4. By this time Nivrutti who was fatally assaulted fell down with bleeding injuries. Nivrutti succumbed to the injuries. An offence came to be lodged on the complaint of Laxman at Kodoli police station against accused Nos. 1 to 4. Constable Redekar was deputed to visit the scene of offence and draw an inquest panchnama and to send the body of the victim for post mortem. A search was launched against accused Nos. 1 to 4. Dr.Powar conducted the post mortem and submitted his

report. Search party spotted the accused Nos. 1 to 4 at about 11.30 p.m. At the foot of Jotiba hill and apprehended them. Accused Nos. 1 to 4 were brought to Kodoli police station at mid night where their clothes were attached by head constable Patel.

4. The prosecution case examined as many as 12 witnesses to prove its case that the accused were responsible for the homicidal death of Nivrutti Patil. The learned trial Judge on appreciation of this evidence came to the conclusion that the prosecution has proved the case against accused No.1 only and therefore convicted him as aforesaid and acquitted the other accused. It is this order of conviction which is challenged in this appeal.

5. Of the 12 witnesses examined P.Ws.1 to 4 are panchas who witnessed the various documents recorded by Police and subscribed their signatures to those documents and which they admit and are proved. P.Ws.10, 11 and 12 are police officials who conducted the investigation in different parts and executed various documents which were also witnessed by panchas. P.W.9 is the medical officer who proves that the death of Nivrutti was homicidal. That leaves four witnesses each of whom was an eye witness to the assault and has deposed that the assault took lace in their presence. They corroborate each other. Every witness is mentioned in the deposition of other witness. Their presence is natural and there is no reason why their testimony which is duly corroborated on material points be not accepted.

6. The learned trial Judge has noticed all this evidence and has on appreciation came to the conclusion that the accused alone was guilty for the homicidal death of Nivrutti. He accordingly proceeded to convict the accused as aforesaid. In our opinion, all the findings recorded by the learned trial Judge are correct. They are given due appreciation of evidence on record. The application of law to the facts of the present case is also proper. On reappreciation of the evidence we are also of the same conclusion. According to us there is no reason to reject the corroborative testimony of four eye witnesses. We endorse the findings of the learned trial Judge as in our opinion, they are properly recorded and we also would have recorded the same findings. In our opinion, therefore there is no substance in this appeal and the same deserves to be dismissed. Appeal accordingly stands dismissed.